

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2388/2000

New Delhi, this 12th day of April, 2001

Hon'ble Shri M.P. Singh, Member(A)

Vishesh Kumar .. Applicant
203, Sector II, R.K.Puram, New Delhi
(By Shri P.M.Ahlawat, Advocate)

versus

Union of India, through

1. Secretary
Dept. of Drinking Water Supply
Ministry of Rural Development
Krishi Bhavan, New Delhi
2. Joint Secretary
Dept. of Drinking Water Supply
Ministry of Rural Development
Krishi Bhavan, New Delhi
3. Under Secretary
Dept. of Drinking Water Supply
Ministry of Rural Development
CGO Complex, New Delhi

.. Respondents

(By Shri D.S.Mehandru, Advocate)

ORDER

By filing this OA, the applicant has challenged the order dated 8.11.2000 by which his services have been terminated by giving him one month's notice.

2. Heard the learned counsel for the parties and perused the records.

3. It is the case of the applicant that he has been working as daily wager safaiwala w.e.f. 10.7.95. He approached along with other similarly placed persons this Tribunal through OA 2158/99 which was disposed of by order dated 9.2.2000 with the directions to the respondents to consider their case for grant of temporary status in terms of DoPT Scheme dated 10.9.93 and in case the services of the applicants are required,



the respondents shall continue with their services in preference to juniors and outsiders. When the respondents did not implement the judgement dated 9.2.2000, applicants in OA 2158/99 filed CWP No.2400/2000 which was dismissed by the Delhi High Court by its order dated 10.5.2000. The counsel has contended that the applicant should have been granted temporary status w.e.f. 10.7.96 but it was not done.

4. On the other hand, it is the case of the respondents that the applicant, along with others in OA 2158/99, was granted temporary status w.e.f. 12.5.2000. The applicant is in the habit of illegally absenting himself without even informing the respondents so as to enable them to make alternative arrangement. In view of this position, the department has been in touch with the Ministry and requested to post a regular Safai Karmchari who has now been posted w.e.f. 17.11.2000 vide order dated 15.11.2000. Since no work is now available, his services were terminated by notice dated 8.11.2000 in terms of the provisions of the DoPT Scheme dated 10.9.93. However he would be considered for re-engagement in preference to juniors and outsiders subject to fulfilment of other terms and conditions, as and when the work is available in future.

5. The learned counsel for the applicant is relying on the judgement of the Supreme Court in the case of Nar Singh Pal Vs. UOI 2000(1) SC SLJ 508 to contend that casual labour who has attained temporary status is entitled to the constitutional protection envisaged by Article 311 of the Constitution and other articles dealing with services under the Union of India. In the



aforesaid case, the appellant was a casual labour who had attained the temporary status after having put in ten years service. He was prosecuted for an offence under various sections of IPC and ultimately his services were terminated. The apex court held that the termination was punitive in nature and ordered for his reinstatement. The case on hand is distinguishable in the sense that when the respondents got a regular Safai Karamchari posted in place of the applicant, who was in the habit of absenting himself and neglecting his duty, they terminated the services of the applicant with one month's notice as per rules. However they have submitted that the applicant would be reengaged as and when work is available in preference to his juniors/freshers. In view of this position, the action of the respondents cannot be faulted.

6. In the result, I find no merit in the present OA and the same is dismissed accordingly. However, respondents shall consider re-engagement of the services of the applicant in preference to juniors/freshers to the applicant as and when work of the nature against which he was working is available. There shall be no order as to costs.

MPS
(M.P.Singh)
Member(A)

/gtv/